

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3 ■

Do Not Mark In This Box

FILED

2001 JUL 26 A 10:54

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Records Mangement and Preservation Board TITLE NUMBER: 100

CITE AUTHORITY: Legislative

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: County Records Management and Preservation Grant

Program

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 26 July 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No) Records Management and Preservation Board

c/o Archives & History, The Cultural Center, Building 9

1900 Kanawha Blvd. E., Charleston, WV 25305
(558-0230)

LEGISLATIVE RULE TITLE: County Records Management and Preservation Grant Program

1. Authorizing statute(s) citation 5A-8-15

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
25 June 2001

b. What other notice, including advertising, did you give of the hearing?
Public comment period, posted on agency web site - www.wvculture.org
sent out press release, mailed to all county clerks with request to post, and to
county historical and genealogical groups to share with members.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
25 July 2001, 5:00 p.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

26 July 2001

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Fredrick H. Armstrong, Director, Archives & History, The Cultural Center

Building 9, 1900 Kanawha Blvd. E., Chas. WV Ph. 558-0230, Fax 558-4193

e-mail fhamstrong@wvculture.org AND

Nancy Herholdt, Chairwoman, Records Management and Preservation Board

c/o Division of Culture and History (same address as above) 558-0230

fax 558-2779, nancyherholdt@wvculture.org

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

Summary of County Records Management and Preservation Grant Program (Rule 100-1)

Public records created, filed, and stored under the auspices of county government offices, officers and officials have reached critical mass in most of the state's courthouses and created challenges to management, public access and preservation beyond the financial and human resources available. Records custodians lack adequate funds to provide for proper storage conditions, and to provide for the security of unique records and information required for governmental operations and citizen needs. They lack office and storage areas meeting minimum environmental requirements for paper, audio, film, tape, and electronic records. Many, charged with responsibility for records over 150 to 200 years old, have not had the resources and staff to provide the attention the records require. Most are also confronted with buildings which were not designed to provide adequate and proper storage space and environments. These problems have been compounded by the absence of an established records management program detailing policies and procedures for creating and managing records during their life cycle, records schedules, training for staff in records management administration, changing records technologies and preservation techniques and formats for public records.

This records management and preservation grant program, established through legislation passed in the 2000 Session (SB592), addresses these needs by providing funds to county governments to provide for a more uniform, efficient and effective records management program, the preservation of records of enduring value, and continued public access to the information recorded regardless of format. The program seeks uniformity in records management, preservation, reformatting and access, utilizing the most efficient and cost effective applications, and applying the best practices and standards available.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: County Records Management and Preservation Grant Program

Type of Rule: Legislative Interpretive Procedural

Agency: Records Management and Preservation Board

Address: c/o: Archives and History

1900 Kanawha Blvd. E.

Charleston, WV 25305-0300

1. Effect of Proposed rule:

| | ANNUAL FISCAL YEAR | | | | |
|----------------------------------|--------------------|----------|--------------------|-----------------|------------|
| | INCREASE | DECREASE | 2001-02 CURRENT | 2002-03 NEXT | THEREAFTER |
| ESTIMATED TOTAL COST | | | \$125,000 | \$400,000 | \$350,000 |
| PERSONAL SERVICES | | | 8000 | 75,000 | 75,000 |
| CURRENT EXPENSE | | | 10,000 | 25,000 | 25,000 |
| REPAIRS & ALTERATIONS | | | | | |
| EQUIPMENT | | | | 75,000 | 75,000 |
| OTHER | | | 107,000 | 225,000 | 175,000 |

2. Explanation of Above Estimates:

Proposed budget based on estimated revenues generated by fees on record filings at county clerks' offices. Expenditures provide for fifty percent to be expended in grants and surveys (other) and remainder for personnel to staff program, staff and board travel and expenses, and equipment to manage, store and reformat records.

3. Objectives of These Rules:

To provide for uniform system to manage and preserve county records.

Rule Title: County Records Management and Preservation Grant Program

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

Improved records management will reduce cost for storing and accessing records, provide efficiencies beneficial to county government staff and citizens relying on access to the records.

C. Economic Impact on Citizens/Public at Large.

See above.

Date: 25 June 2001

Signature of Agency Head or Authorized Representative:

Fredrick H. Barnstrom

FILED

TITLE 100
LEGISLATIVE RULES
RECORDS MANAGEMENT AND PRESERVATION BOARD

2001 JUL 26 A 10:55

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 1
COUNTY RECORDS MANAGEMENT AND PRESERVATION GRANT PROGRAM

§100-1-1. General.

1.1. Scope. -- This legislative rule establishes general guidelines for a county records management and preservation grants program administered by the Archives and History section of the Division of Culture and History for the Records Management and Preservation Board.

1.2. Authority.--W. Va. Code §§5A-8-15

1.3. Filing Date.--_____

1.4. Effective Date.--_____

§100-1-2. Definitions.

2.1. "Archival quality" means a quality of reproduction providing permanent, durable, and nondestructive storage or copying medium for records consistent with established standards specified by state and national agencies and organizations responsible for establishing such standards, such as the Association for Information and Image Management, the American National Standards Institute, the National Bureau of Standards, the National Archives and Records Administration, and others as applicable to the project submitted for funding.

2.2. "Archival record" means all non-current records of continuing and enduring value useful to the citizens of the state and necessary to the administrative functions of counties and municipalities in the conduct of services and activities mandated by law. In appraisal of public records deemed archival, the terms "administrative," "fiscal," "historical," and "legal" shall be defined as:

2.2.a. "Administrative value" means the records have continuing utility in the operation of an agency of a county.

2.2.b. "Fiscal value" means the records are needed to document and verify financial authorizations, obligations and transactions.

2.2.c. "Historical value" means the records contain information, regardless of age, which provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

2.2.d. "Legal value" means the records document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.

2.3. "Board" means the Records Management and Preservation Board.

2.4. "Custodian" means the county official in charge of an office having public records.

2.5. "Director" means the Director of the Archives and History Section.

2.6. "Preservation" means maintaining archival records in their original form by stabilizing them chemically or strengthening them physically to ensure their survival as long as possible in their original form. It also means the reformatting of written, printed, electronic or visual archival originals to extend the life of the information.

2.7. "Public record" means recorded information that documents a transaction or activity by a county official or office. Regardless of physical form or characteristic, the recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business.

The medium on which the information is recorded may be, but is not limited to, paper, film, magnetic, optical or solid state devices which can store electronic signals, tapes, Mylar, linen, silk or vellum. The general types of records may be, but are not limited to, books, papers, letters, documents, printouts, photographs, films, tapes, microfiche, microfilm, photostats, sound recordings, maps, drawings, and any representations held in machine readable form.

2.8. "Records Management" means the efficient and effective management and control of the creation, maintenance, use, and disposal of records, files and forms.

§100-1-3. Introduction.

Public records created, filed, and stored under the auspices of county government offices, officers and officials have reached critical mass in most of the state's courthouses and created challenges to management, public access and preservation beyond the financial and human resources available. Records custodians lack adequate funds to provide for proper storage conditions, and to provide for the security of unique records and information required for governmental operations and citizen needs. They lack office and storage areas meeting minimum environmental requirements for paper, audio, film, tape, and electronic records. Many, charged with responsibility for records over 150 to 200 years old, have not had the resources and staff to provide the attention the records require. Most are also confronted with buildings which were not designed to provide adequate and proper storage space and environments. These problems have been compounded by the absence of an established records management program detailing policies and procedures

for creating and managing records during their life cycle, records schedules, training for staff in records management administration, changing records technologies and preservation techniques and formats for public records.

This records management and preservation grant program addresses these needs by providing funds to county governments to provide for a more uniform, efficient and effective records management program, the preservation of records of enduring value, and continued public access to the information recorded regardless of format. The program seeks uniformity in records management, preservation, reformatting and access, utilizing the most efficient and cost effective applications, and applying the best practices and standards available.

§100-1-4. Program Funds and Grants

- 4.1. (1.) Only county officials and offices may qualify for funds under this program. Funds will be expended to conduct initial surveys and prepare condition of records reports, and may be expended for consultants to investigate and develop model or pilot projects to address common or shared records needs or problems. (2.) Upon completion of an initial survey report, grant requests may be submitted to address storage needs, improved public access and reformatting of records, and will be awarded in accordance with annual formulae developed and issued by the Board based on revenues available.

4.2. In general, grants will be awarded to address records management and preservation of original historical public records and/or the historical information contained on these records. Eligible program areas include, but are not limited to:

- (1.) Implementation of an approved records schedule;
- (2.) Processing and indexing projects;
- (3.) Storage of records; and
- (4.) Reformatting of records.

Grant applications will be prioritized in this order initially. Priority will be given to applications utilizing nationally recognized standards for records management principles, procedures, and technologies, and archival quality preservation practices, processes and technologies as issued by the Association of Records Managers and Administrators (ARMA), National Association of Government Archivist and Records Administrators (NAGARA), International City/County Management Association (ICMA), and others.

4.3. Each funding period is for one year to run concurrent with state fiscal year.

4.4. All county offices, upon completion of initial survey report, are eligible to apply for funds but will not automatically receive funds. Grants will be evaluated and rated in accordance with program priorities established by section 4.2 above. The Board will consider the grant applications and ratings and approve, amend or reject for funding.

4.5. Availability of the project application form and selection criteria will be announced by the Board in September of each calendar year, sent to the Clerk of the County Commission, and made accessible on the Archives and History web page or upon request to the Director of Archives and History, 1900 Kanawha Boulevard, East, Charleston, WV 25305-0300. Hard copies of the completed application (one original and two copies) must be postmarked no later than the 1st day of November of each calendar year and sent to the Board care of the above address.

4.6. Successful grant recipients will be notified on or before the first day of March of each year.

4.7. Successful applicants will be required to:

4.7.a. enter into a binding contract to expend all grant funds awarded in accordance with state purchasing laws and rules;

4.7.b. meet standard financial management systems and general accounting standards for audit of government entities and organizations;

4.7.c. be agreeable to participate in pre-grant meetings and on-site visits; and

4.7.d. provide a report, by way of example, detailing project accomplishments, successes and failures, products, etc., and financial reports within ninety (90) days of the completion of the project or 30 September, whichever is earlier, to the Board care of the Director of Archives and History, 1900 Kanawha Boulevard, East, Charleston, WV 25305-0300.

4.8. Unsuccessful applicants will be notified in writing within fifteen (15) days of the Board's decision on the application.

4.8.a. Any grant applicant failing to receive an award may appeal this action by submitting a written request for reconsideration with specific reasons as to why the Board's original decision should be overturned.

4.8.b. The request for reconsideration must be made to the Board addressed to the Director at Archives and History, 1900 Kanawha Boulevard., East, Charleston, WV 25305-0300 within fifteen (15) days of receipt of notification of the denial of the grant request.

4.8.c. Within thirty (30) days of the request for reconsideration the Board will issue its final administrative determination on the grant request. The director will notify the appellant of the Board's decision in writing.



STATE OF WEST VIRGINIA
DEPARTMENT OF EDUCATION AND THE ARTS
OFFICE OF THE CABINET SECRETARY
STATE CAPITOL BUILDING 5, ROOM 205
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305

BOB WISE
GOVERNOR

KAY GOODWIN
CABINET SECRETARY

July 25, 2001

The Honorable Joe Manchin, III
Secretary of State
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305


Dear Secretary Manchin:

I am hereby approving for filing with your office and the Legislative Rule-Making Review Committee for their review the following legislative rule of the Division of Culture and History:

Title 1000, Series 1: County Records Management and Preservation Grant Program

The rule is attached.

Sincerely,


Kay Goodwin
Cabinet Secretary

cc: Nancy P. Herholdt, Commissioner
Division of Culture & History

Fredrick H. Armstrong, Director
Archives & History

Enclosure